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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/313,079	05/17/1999	TOMOAKI KOJIMA	Q54398	3430

7590

09/11/2002

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EXAMINER

NGO, RICKY QUOC

ART UNIT

PAPER NUMBER

2664

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

1/5

Office Action Summary

Application No.

09/313,079

Applicant(s)

KOJIMA, TOMOAKI

Examiner

Ricky Ngo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 4 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim 4 has not been further treated on the merits.

Claim Rejections - 35 USC § 112

2. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- The ATM buffer device of claim 1 is not clear whether it is being claimed as a separate unit, or an inclusion unit of the data I/O device or the data processing device. No indication in the claim particularly points out its correlation with other devices. Such omission renders the claim indefinite.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Soumiya et al. (US Patent No. 5,696,764).

- Soumiya et al. disclose an ATM switch with QoS guaranteed, including at least one data I/O device (e.g. the mux 61 and demux 64 combined, Fig. 7) for inputting and outputting data cells regarding a service class; a data processing device (e.g. the QoS control portion 70) having a data analysis section and a data reading/setting section (illustrated in Fig. 8) for processing the data cells; and a buffer device which includes a buffer (e.g. the shared buffer 62) inherently having plural queues each associated with a service class and a cell reading/writing buffer section (63).

5. Claims 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Shon (US patent No. 5,499,238).

- Shon teaches of a cell identification unit (Fig. 3A) in an ATM switch, which, similar to the claimed invention, defines QoS services for incoming ATM cells and classifies the ATM cells into plural buffer according to their defined QoS services. See the detailed description of Figs. 3A-B in cols. 5 and 6. The operation of the cell identification unit is believed to include all

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the claimed steps of each claim in order to define and to classify the QoS services of the ATM cells in the ATM switch.


Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO Form 892.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky Q. Ngo whose telephone number is **703-305-4798**. The examiner can normally be reached on MaxFlex Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on **703-305-4366**. The fax phone numbers for the organization where this application or proceeding is assigned are **703-872-9314** for regular communications and 703-308-6606 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **703-305-3900**.


Ricky Ngo
Primary Examiner
Art Unit 2664

September 7, 2002